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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------|
| 09/936,795 | 02/19/2002 | Robert Bridges | BOUL/0007 | 1519 |
| 7590 | 08/19/2005 | | EXAMINER COHEN, AMY R | |
| William B Patterson Moser Patterson & Sheridan Suite 1500 3040 Post Oak Boulevard Houston, TX 77056 | | | ART UNIT | PAPER NUMBER |
| | | | 2859 | |
| DATE MAILED: 08/19/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 09/936,795 | | BRIDGES, ROBERT | |
| | Examiner | | Art Unit | |
| | Amy R. Cohen | | 2859 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 42 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 42 appears to be directed to the embodiment of Fig. 1, wherein there are starlock washers at the ends of spring 2, however this is inconsistent with claim 36 upon which claim 42 depends. Claim 36 states that the failure element comprises a number of different materials arranged in series and/or parallel (the embodiment shown in Fig. 2 wherein the starlock washers are at the ends of the central rod 4, not the ends of spring 10). It is unclear as to how Applicant is combining these two embodiments since they are described as separate embodiments in the specification and the figures.

Claim 45 appears to be directed to the embodiment of Fig. 3, wherein the indicator element is within the tubular element of the failure element, however, this is inconsistent with claim 36 upon which claim 45 depends. Claim 36 states that the failure element comprises a number of different materials arranged in series and/or parallel (the embodiment shown in Fig. 2). It is unclear as to how Applicant is combining these two embodiments since they are described as separate embodiments in the specification and the figures.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 36-41, 43, 44, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wainwright (U. S. Patent No. 4,682,156) in view of Terhune et al. (U. S. Patent No. 4,628,252).

Wainwright discloses a device for detecting the presence of a chemical leakage (Col 1, lines 48-59), the device (16) comprising an indicator element (24, 48) which is held in a first position by means of a failure element (18) which is held in tension (28), the failure element being made of a material which fails in the presence of a chemical leakage, thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide an indication of the presence of the leakage (Col 4, line 58-Col 5, line 11).

Wainwright discloses the device wherein the indicator is held in the first position by a biasing force (from 28), the biasing force acting to move the indicator element to the second position upon failure of the failure element (Col 4, line 58-Col 5, line 11).

Wainwright discloses the device wherein the biasing force is provided by the resilience of the indicator element (Col 4, lines 38-53).

Wainwright discloses the device wherein the resilient indicator element is a spring (28) which is fixed to the failure element, the spring being under compression, such that the failure element is under tension (Col 4, line 58-Col 5, line 11).

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Wainwright discloses the device wherein the failure element is a tubular member (Col 3, lines 15-27).

Wainwright discloses the device wherein the tubular member is sealed, the inside of the tubular member is maintained at a pressure other than atmospheric, and means are provided to monitor this pressure to determine the integrity of the tubular member (this type of device is discussed in the Background, Col 1, lines 10-28).

Wainwright discloses the device wherein the failure element is made of a material which changes its appearance in the presence of the leak (breaking or dissolving rod 18, is a change in appearance).

Wainwright discloses the device wherein the indicator element is held in the first position by a biasing force and wherein a further force, which is strong enough to override the biasing force is arranged to act on the indicator element to move it to the second position upon failure of the failure element (Col 4, line 58-Col 5, line 11).

Wainwright discloses the device wherein the failure element and the indicator are arranged to be supported vertically, wherein the further force is gravity (Col 4, line 58-Col 5, line 11).

Wainwright does not disclose the device wherein the failure element comprises a number of different materials arranged in series and/or in parallel.

Terhune et al. discloses a device for detecting the presence of a chemical leakage wherein the failure element comprises a number of different materials (26, 28, 30) arranged in series and/or in parallel (Col 4, lines 6-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Wainwright to have the failure element comprise a number of different materials, as taught by Terhune et al., in order to prevent uncorrelated failures (Col 8, lines 21-26).

Response to Arguments

5. Applicant's arguments with respect to claims 36-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
August 17, 2005



Christopher Fulton
Primary Examiner
Tech Center 2800